

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO: 10143 of 1998

Between:

M.Prabhakara Rao S/o Mallikarjuna Rao, Auction Superintendent

Auction Platform No.4, Periyapatna, Mysore District, Karnataka

State.

.... PETITIONER

AND

1. The Union of India rep. by its Secretary and Appellate

Authority, Ministry of Commerce, New Delhi.

2. The chairman, Tobacco Board, Guntur ,Andhra Pradesh.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction more particularly one in the nature of writ of certiorari and call for all relevant and connected records relating to proceedings No.TB/Vig./MPR/87/1345, dated 22.9.92 of the 2nd respondent and order No.1/17/92-EP(Agri.VI)/1, dt.21.10.1997 of the 1st respondent and quash or set aside the same holding it as arbitrary, illegal, unjust , unsustainable and violative of Article 14 of the Constitution of India and pass such other and further order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.NUTY RAM MOHAN RAO

Counsel for the Respondents: MR.S.SRINIVAS REDDY

The Court made the following:

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ORDER:

This writ petition is filed questioning the Proceedings No. TB/Vig./MPR/87/1345, dated 22.9.1992 on the file of the second respondent and Order No.1/17/92-EP (Agri.VI)/1, dated 21.10.1997 on the file of first respondent confirming the order of the second respondent and to declare the same as arbitrary and illegal.

2. It is the case of the petitioner that he was appointed as Field Officer with effect from 10.2.1977 in the respondent organization and he has earned promotion as a Senior Grade Officer and Auction Superintendent. He maintained a fairly decent record giving no scope from any corner. He was posted as Auction Superintendent in the Auction Platform No.9 at Bhadrachalam, Khammam District. While so, on the basis of a criminal complaint filed by certain individuals, he was issued with a charge sheet on 5.10.1987 alleging that the petitioner collected money illegally through his staff in the Auction Platform and also through brokers in the villages for upgrading the classification of tobacco and for giving out of turn allotment of bales to the growers and also did not exercise proper control over the staff working in the auction platform. A detailed enquiry was conducted and the enquiry officer submitted his report. The enquiry officer found that the petitioner was guilty of payment of bribes for out of turn allotment of bales. On the basis of the enquiry report, the disciplinary authority, after completing the formalities passed an order imposing a punishment of stoppage of three increments with cumulative effect. Aggrieved by the same, he has preferred an appeal before the first respondent and the appellate authority refused to interfere with the order passed by the disciplinary authority and

dismissed the appeal by order dated 21.10.1997. Aggrieved by the same, the present writ petition is filed.

3. A detailed counter affidavit has been filed denying allegations made by the petitioner.

4. I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material made available on record.

5. It is the case of the petitioner that entire evidence is built upon surmises and conjectures and no independent witness spoke about his involvement into the misconduct alleged. The impugned orders are liable to be set aside as there is no evidence. It is also not the case of the management that he had collected bribes before parting with the tobacco. The enquiry officer held that the petitioner did not exercise proper control over the staff working at the platform. It is also held that the imputation to the extent of payment of bribes for out of turn allotment of bales is proved. The petitioner did not maintain safe custody of the bales kept in the godown and thereby growers incurred loss. The action of the petitioner was in violation of the Rule 3(i)(ii) of the CCS (Conduct) Rules, 1964. In fact, the disciplinary authority as well as the appellate authority have taken a pragmatic view of the situation and were very lenient in awarding punishment of stoppage of three increments with cumulative effect. I am of the considered opinion that there is any perverse finding or lapse on the part of the enquiry officer in conducting the enquiry or the punishment imposed is disproportionate to the misconduct alleged. The impugned order does not call for interference at the hands of this Court under Article 226 of the Constitution of India.

6. The writ petition is devoid of merits and is liable to be dismissed. The writ petition is accordingly dismissed. No order as to costs.

C.V.RAMULU, J

Dated: 9.6.2005.

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To

1. The Secretary and Appellate Authority, Ministry of
Commerce, Union of India, New Delhi.
2. The chairman, Tobacco Board, Guntur ,Andhra Pradesh.
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